

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****Eustance F. Douglas, M.D.; Revocation of Registration**

On July 22, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Eustance F. Douglas, M.D., of Racine, Wisconsin, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AD2704256, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Wisconsin. The order also notified Dr. Douglas that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received by Dr. Douglas on July 27, 1996. No request for a hearing or any other reply was received by the DEA from Dr. Douglas or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Douglas is deemed to have waived his hearing right. After considering the relevant materials from the investigative file in the matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.54(e) and 1301.57.

The Acting Deputy Administrator finds that by a Final Decision and Order dated August 25, 1993, the Wisconsin Medical Examining Board accepted Dr. Douglas's surrender of his Wisconsin license to practice medicine and surgery effective August 31, 1993. The Acting Deputy Administrator finds that in light of the fact that Dr. Douglas is not currently licensed to practice medicine in the State of Wisconsin, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently

upheld. See Dominick A. Ricci, M.D., 58 F.R. 51,104 (1993); *James H. Nickens*, M.D., 57 F.R. 59,847 (1992); Roy E. Hardman, M.D., 57 F.R. 49,195 (1992).

Here, it is clear that Dr. Douglas is not currently authorized to handle controlled substances in the State of Wisconsin. Therefore, Dr. Douglas is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AD2704256, previously issued to Eustance F. Douglas, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective May 22, 1997.

Dated: April 8, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97-10372 Filed 4-21-97; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE**Drug Enforcement Administration**

[Docket No. 96-21]

Ellis Turk, M.D.; Denial of Application

On February 12, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ellis Turk, M.D., (Respondent) of Baltimore, Maryland, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason that such registration would be inconsistent with the public interest.

By letter received by DEA on March 12, 1996, Respondent, through counsel, timely filed a request for a hearing, and following prehearing procedures, a hearing was held in Arlington, Virginia on September 4, 1996, before Administrative Law Judge Paul A. Tenney. At the hearing both parties called witnesses to testify and introduced documentary evidence. After the hearing, both sides submitted proposed findings of fact, conclusions of law and argument. On November 22, 1996, Judge Tenney issued his Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's

application for a DEA Certificate of Registration should be granted subject to various temporary limitations. On December 11, 1996, Government counsel filed exceptions to the Recommended Ruling of the Administrative Law Judge, and subsequently, Respondent's counsel filed a response to the Government's exceptions. Thereafter, on January 14, 1997, Judge Tenney transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issued his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Deputy Administrator finds that Respondent previously possessed DEA Certificate of Registration, AT2444711. On April 15, 1993, and Order to Show Cause was issued proposing to revoke that Certificate of Registration, alleging that Respondent's continued registration would be inconsistent with the public interest. Following a hearing before Administrative Law Judge Mary Ellen Bittner, the then-Deputy Administrator adopted the Opinion and Recommended Decision of Judge Bittner and revoked Respondent's DEA registration in a final order dated March 30, 1995, and effective May 8, 1995. See *Ellis Turk, M.D.*, 60 FR 17,577 (April 6, 1995).

In the prior proceeding, the then-deputy Administrator found that in 1987, DEA had received reports from drug distributors that Respondent had purchased excessive quantities of phentermine and phendimetrazine, both controlled substances. Consequently, on two occasions in December 1988, DEA, pursuant to administrative inspection warrants, conducted an accountability audit of controlled substances at Respondent's office covering the period December 29, 1987, through December 12, 1988. This audit revealed shortages of phentermine and phendimetrazine. These shortages were confirmed by a second audit conducted by a different DEA investigator using different records than those used for the previous audit. As a result of the audits, on November 22, 1989, a civil complaint was filed in the United States District Court for the District of Maryland. Following a bench trial, the court found that Respondent failed to comply with the recordkeeping requirements of the Controlled Substances Act (CSA) and assessed a civil penalty of \$24,000.00. The decision of the District Court was upheld by the United States Court of Appeals for the Fourth Circuit. Respondent brought a civil action